

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:08CV363**

**PENNSYLVANIA NATIONAL MUTUAL )  
CASUALTY INSURANCE COMPANY, )**

**Plaintiff, )**

**Vs. )**

**ORDER OF DISMISSAL**

**CARRIAGE PARK ASSOCIATES, LLC;) )  
CPA REALTY CORPORATION; GREG )  
YOUSE, individually; CAROLINE R. )  
ANDERSON; ED and FERN JUTRAS; )  
GEORGE and BARBARA GUENTHER;) )  
LESLIE and JANICE CHEATLE; )  
MARY and JAMES WOHLGEMUTH; )  
and RAYMOND and PENELOPE )  
GAMBLE, )**

**Defendants. )**

**THIS MATTER** is before the Court on the Magistrate Judge's  
Memorandum and Recommendation, filed November 14, 2008.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of  
Designation of this Court, United States Magistrate Judge Dennis L.  
Howell, was designated to consider pending motions in the captioned civil

action and to submit to this Court recommendations for the disposition of these motions.

On November 14, 2008, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding the respective Defendants' motions to dismiss. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on December 5, 2008. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' motions to dismiss be allowed.

**IT IS, THEREFORE, ORDERED** that the motion of Defendants Carriage Park Associates, LLC, CPA Realty Corporation, and Greg Youse, to dismiss is **ALLOWED**, and Plaintiff's claims against these Defendants are hereby **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that the motion of Defendants Caroline Anderson, Ed and Fern Jutras, George and Barbara Guenther, Leslie and Janice Cheattle, Mary and James Wohlgemuth, and Raymond and Penelope Gamble, to dismiss is **ALLOWED**, and Plaintiff's claims as to these Defendants are hereby **DISMISSED WITHOUT PREJUDICE**.

Signed: December 11, 2008

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

